



1 APPEARANCES:  
2 MS. CHERYL HAMILL  
3 222 West Adams, Suite 1800  
4 Chicago, Illinois 60606  
5 Appearing for AT&T Communications of  
6 Illinois, Inc.;

7 MS. LOUISE SUNDERLAND  
8 225 West Randolph Street, Suite 25D  
9 Chicago, Illinois 60606  
10 Appearing for Illinois Bell Telephone  
11 Company;

12 MR. WILLIAM A. HAAS  
13 PO Box 3177  
14 Cedar Rapids, Iowa 52406  
15 Appearing for McLeod USA  
16 Telecommunications Services, Inc.;

17 MR. ROBERT KELTER  
18 208 South LaSalle Street, Suite 1760  
19 Chicago, Illinois 60604  
20 Appearing for Citizens Utility Board;

21 MS. SUSAN L. SATTER and  
22 MS. JANICE A. DALE  
100 West Randolph  
Chicago, Illinois 60601  
Appearing for People of the State of  
Illinois;

COOK COUNTY STATE'S ATTORNEY'S OFFICE  
MS. MARIE SPICUZZA, MR. MARK PERA and  
MR. ALLAN GOLDENBERG  
69 West Washington Street, Suite 700  
Chicago, Illinois 60602  
Appearing for People of Cook County;

MR. MATTHEW L. HARVEY, MR. DAVID L. NIXON and  
MR. SEAN R. BRADY  
160 North LaSalle Street, Suite C-800  
Chicago, Illinois 60601  
Appearing for Staff;

1 APPEARANCES (Cont'd)

2 MR. JACK PACE  
3 30 North LaSalle Street, Suite 900  
4 Chicago, Illinois 60602  
5 Appearing for City of Chicago;

6 MR. DARRELL TOWNSLEY  
7 205 North Michigan Avenue, Suite 1100  
8 Chicago, Illinois 60601  
9 Appearing for MCI WorldCom, Inc.

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20 SULLIVAN REPORTING COMPANY, by  
21 Barbara A. Perkovich, CSR

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1 I N D E X

2 Re - Re- By  
 3 Witnesses: Direct Cross direct cross Judge  
 4 JUDITH MARSHALL 2920 2932

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6 E X H I B I T S

7	Number	For Identification	In Evidence
8	JOINT CLEC #1.0&1.0P	2914	2914
9	MCLEAD USA		
10	#1.0&2.0	2916	2916
11	STAFF CONN CROSS		
12	#1	2916	2916
13	STAFF EX		
14	#35.0	2921	2921
15	AMERITECH		
16	#16.0&16.0P	2931	2931
17	STAFF		
18	#36.	2931	2931

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1 JUDGE CASEY: Pursuant to the authority and  
2 direction of the Illinois Commerce Commission, we  
3 now call Docket No. 98-0252, Docket No. 98-0355, and  
4 Docket No. 00-764, consolidated.

5 This is Illinois Bell Telephone Company, this  
6 is an application of review for alternative  
7 regulation plan, as well as a petition to rebalance  
8 Illinois Bell Telephone Company's carrier access and  
9 network access line rates, and Citizens Utility  
10 Board and People of Illinois versus Illinois Bell  
11 Telephone.

12 May we have the appearance for the record,  
13 please.

14 MS. SUNDERLAND: On behalf of Illinois Bell  
15 Telephone Company, Louise A. Sunderland, 225 West  
16 Randolph Street, Chicago, Illinois 60606.

17 MR. HARVEY: For the Illinois Commerce  
18 Commission staff, Matthew L. Harvey and David L.  
19 Nixon, 160 North LaSalle Street, Suite C-800,  
20 Chicago, Illinois 60601-3104.

21 MS. HAMILL: On behalf of AT&T Communications of  
22 Illinois, Inc., Cheryl Hamill, 222 West Adams

1 Street, Suite 1500, Chicago, Illinois 60606.

2 MR. TOWNSLEY: Appearing on behalf of World Com  
3 Incorporated, Darrell Townsley, 205 North Michigan  
4 Avenue, Suite 1100, Chicago, Illinois 60601.

5 MR. PACE: Jack Pace on behalf of the City of  
6 Chicago, 30 North LaSalle Street, Suite 900,  
7 Chicago, Illinois 60602.

8 MS. SATTER: Susan L. Satter and Janice A. Dale  
9 appearing on behalf of the People of the State of  
10 Illinois, 100 West Randolph Street, Chicago,  
11 Illinois 60601.

12 MS. SPICUZZA: Marie Spicuzza, Mark Pera and  
13 Alan Goldenberg appearing on behalf of the People of  
14 Cook County, Cook County Attorney's Office, Suite  
15 700, Chicago, Illinois 60602.

16 MR. HAAS: William A. Haas appearing on behalf  
17 of the McLeod USA Telecommunications Services, Inc.,  
18 PO Box 3177, Cedar Rapids, Iowa 52406.

19 MR. KELTER: Robert Kelter on behalf of the  
20 Citizens Utility Board, 208 South LaSalle, Suite  
21 1760, Chicago 60604.

22 JUDGE CASEY: Let the record reflect there are

1       no further appearances. This matter comes before us  
2       today continued for hearing. Before we get started  
3       with the testimony, Ms. Marshall, it's my  
4       understanding that the testimony of AT&T, MCI  
5       WorldCom and McLeod USA, that is testimony of  
6       Mr. Starkey, were there going to be questions of  
7       Mr. Starkey today?

8               MS. SATTER: No.

9               MS. SUNDERLAND: No.

10              JUDGE CASEY: Prior to going on the record,  
11       Ms. Hamill, you indicated you would be tendering an  
12       affidavit in support of, is it just the direct  
13       testimony?

14              MS. HAMILL: Yes, your Honor it's the direct  
15       testimony of Mr. Starkey. I apologize, we didn't  
16       know until this morning that there were no questions  
17       for him. We will be happy to submit his testimony  
18       into the record today and then follow it up with an  
19       affidavit if all parties are in agreement.

20              JUDGE MORAN: We hear no objection to that,  
21       Ms. Hamill.

22              MS. HAMILL: I will submit that -- I have a

1 couple of typographical errors that I want to  
2 correct that I've put in the copies to submit to the  
3 court reporter.

4 JUDGE CASEY: Why don't you go through those on  
5 the record. Before we do this, what should we call  
6 this document?

7 MS. HAMILL: Why don't we call it, with your  
8 indulgence Joint CLEC Exhibit 1.0.

9 JUDGE CASEY: Would you please identify the  
10 Joint CLEC's names.

11 MS. HAMILL: Yes, it is the direct testimony of  
12 Michael Starkey on behalf of AT&T, MCI WorldCom,  
13 Inc., and McLeod USA Telecommunications Services,  
14 Inc. And I also have what I'll mark as Joint CLEC  
15 Exhibit 1.0P, which is the proprietary version of  
16 that same testimony.

17 JUDGE CASEY: Okay. Are the same corrections  
18 that you are going to go through on the record also  
19 on 1.0P?

20 MS. HAMILL: There is an additional change to  
21 1.0P because one of the changes is to a table that  
22 was marked proprietary, which does not appear in the

1 public version. Last week Ms. Sunderland agreed to  
2 withdraw the proprietary treatment of that table,  
3 but nonetheless -- so there are two changes to the  
4 public versions and three to the proprietary, simply  
5 because one change was to the proprietary table.

6 JUDGE CASEY: Why don't you identify those  
7 changes.

8 JUDGE MORAN: Excuse me, can the changes to the  
9 proprietary version be done in a public forum?

10 MS. HAMILL: Oh, yes, they are nothing do with  
11 with revealing information, yes, your Honor.

12 On the public version of Joint CLEC Exhibit  
13 1.0P, the first change is on Page 2, Line 34  
14 changing Docket No. 98-055 to 98-0555 to reflect the  
15 Commissions' merger order docket. The second page  
16 is on -- the second change is on Page 6, Line 125,  
17 changing the year 1997 to the year 1998 to indicate  
18 the date that the Commission issued its TELRIC order  
19 in Docket 96-0486.

20 And finally -- that's the last change to the  
21 public version. The proprietary version, Joint CLEC  
22 Exhibit 1.0P, again on Page 2, Line 34 the docket

1       number referenced should be 98-0555 rather than  
2       98-055. Again, on Page 6, Line 125 the year should  
3       be 1998 rather than 1997. And finally on Page 20,  
4       in the proprietary table which is no longer  
5       proprietary, the second line of that table 1007  
6       should rather be 1997.

7             JUDGE CASEY: Are there any other corrections to  
8       either 1.0 or 1.0P?

9             MS. HAMILL: No, those are all of the changes,  
10      your Honor.

11            MS. SUNDERLAND: Cheryl, where again is that  
12      change on the table? Somehow I'm not seeing it.

13            MS. HAMILL: Do you see how the years are  
14      listed, Ms. Sunderland.

15            MS. SUNDERLAND: Oh, yes.

16            MS. HAMILL: Rather than 1007 it should be 1997.

17            JUDGE CASEY: And you have made those  
18      corrections in the copies given to the court  
19      reporter?

20            MS. HAMILL: Yes, which I will give to the court  
21      reporter.

22            JUDGE CASEY: Are there any objections? Then

1 Joint CLEC 1.0 and 1.0P will be admitted and counsel  
2 you are given leave to file an affidavit in support  
3 of those exhibits.

4 MS. HAMILL: Thank you, your Honors.

5 (Whereupon Joint CLEC  
6 Exhibits Nos. 1.0 and 1.0P were  
7 marked for identification and  
8 admitted into evidence.)

9 JUDGE CASEY: Mr. Haas.

10 MR. HAAS: Yes, your Honor. McLeod USA Joseph  
11 P. Terfler, which we have marked as McLeod USA 1.0  
12 on reopening. He's attached two exhibits to that,  
13 1.1 and 1.2. The copies provided to the court  
14 reporter for the court have been provided with a  
15 verification of Mr. Terfler.

16 Also we submitted the prepared direct testimony  
17 of Mr. David R Conn, which has been marked as McLeod  
18 USA Exhibit 2.0 on reopening. Attached to that is  
19 Exhibit 2.1. Also Mr. Conn's provided a  
20 verification, which are on the copies attached for  
21 the court reporter. And I believe there are no  
22 questions for those two witnesses and I would ask

1       that they be admitted into the record on  
2       stipulation.

3               JUDGE CASEY: Any objections?

4               MR. HARVEY: None. One matter that staff has is  
5       Mr. Conn was kind enough to provide a verified  
6       response to a data request that staff would ask to  
7       be admitted as Staff Conn Cross Exhibit No. 1.

8               MR. HAAS: McLeod USA has no objection to that.

9               MR. HARVEY: And I will pass out copies of that  
10       right at this minute and provide several for the  
11       court reporter.

12              JUDGE CASEY: First let's take care of McLeod's  
13       direct testimony. There are no objections, there  
14       has been an affidavit order submitted with the  
15       copies given to the court reporter. That being the  
16       case, McLeod Exhibit 1.0, the direct testimony of  
17       Joseph P. Terfler will be admitted, with  
18       attachments.

19              Exhibit 2.0, the direct testimony of David R.  
20       Conn, with attachments will be admitted. Have the  
21       parties had an at any time to look at staff Conn  
22       Cross Exhibit No. 1 and are there any objections to

1 the admission of this document?

2 MS. SATTER: Can we just have a minute to read  
3 it?

4 JUDGE CASEY: Sure, let's go off the record.

5 (Whereupon, there was  
6 a brief recess taken.)

7 JUDGE CASEY: Are there any objections to the  
8 staff Conn Cross Exhibit No. 1, which purports to be  
9 a response to a data request? Okay, hearing no  
10 objection, that cross exhibit will be admitted.

11 (Whereupon McLeod USA  
12 Exhibits Nos. 1.0 and 2.0 were  
13 marked for identification and  
14 admitted into evidence.)

15 (Whereupon Staff Conn Cross  
16 Exhibit No. 1 was marked for  
17 identification and  
18 admitted into evidence.)

19 JUDGE CASEY: Mr. Townsley, with respect to the  
20 cross exhibits that were --

21 MR. TOWNSLEY: I have undertaken to put together  
22 an affidavit in support of WorldCom Fritzlin Cross

1 Exhibits 2 through 6. And unfortunately this  
2 morning my computer froze up on me, so my affidavit  
3 is frozen back at the office and I will undertake to  
4 finish that affidavit just as soon as I can. And if  
5 I might ask for leave to be able to file that this  
6 afternoon, I would certainly appreciate that.

7 I would also note for the record that on Friday  
8 I had discussed with Ms. Sunderland the potential of  
9 receiving some additional information regarding one  
10 of the data requests that we had outstanding to  
11 Ameritech, and she has indicated that she will be  
12 providing that information to me probably later  
13 today or tomorrow.

14 I want an opportunity to take a look at that,  
15 and just to kind of put a placeholder in the record,  
16 be able to, if I need to, file that as a late filed  
17 exhibit. I don't anticipate -- I really don't know  
18 what to expect because I haven't seen it yet. I  
19 just wanted to make you aware of it.

20 And to the extent that I think it's appropriate  
21 to put it in the record, I just want to be able to  
22 ask for leave to file that as a late filed exhibit

1       at this point in time. It involves rerunning  
2       certain assumptions for the allocation of merger  
3       savings.

4           MS. SUNDERLAND: As you recall there was -- we  
5       had provided MCI with a run we had done where there  
6       was a mistake in the numbers. We had used the wrong  
7       loop count, and we had not used that document  
8       ourselves, so we never corrected it, his witness  
9       didn't rely on it, but the fact is that it was a  
10      wrong number, so I volunteered to rerun it with the  
11      correct loop count number in it. We were working on  
12      that, we should have it, as he indicated, later  
13      today or first thing in the morning.

14           There was also one additional run that we had  
15      made that related to Mr. Starkey's growth number,  
16      growth adjustments. And we have offered to make  
17      that available to Mr. Townsley to look at also. And  
18      again, we will have that today, and maybe even  
19      before this hearing is over, but he will probably  
20      want an opportunity to look at it.

21           JUDGE CASEY: The second item, is that also part  
22      of the same data request that he referred to or is

1       this something different?

2               MS. SUNDERLAND: Well, possibly. It was another  
3 look at how the merger savings might be allocated.

4               MR. TOWNSLEY: And that was certainly within the  
5 scope of the request.

6               MS. SUNDERLAND: It was done after we received  
7 their testimony, but we did do it.

8               JUDGE CASEY: So do you have an objection to his  
9 request to submit it as a late filed exhibit?

10              MS. SUNDERLAND: No, not at all.

11              JUDGE CASEY: Then you are granted leave to file  
12 that as a late filed exhibit if you so choose.

13              MR. TOWNSLEY: Thank you, your Honors. What I  
14 can do is when I file my affidavit in support of my  
15 cross exhibits, I can indicate in my cover letter  
16 whether I will be seeking to enter those as late  
17 file exhibits, the updated data request responses,  
18 if that will meet your needs.

19              MR. HARVEY: Staff would now like to call Judith  
20 Marshall to testify.

21

22

1 (Witness sworn.)

2 JUDITH MARSHALL,

3 called as a witness herein, having been first duly  
4 sworn, was examined and testified as follows:

5 DIRECT EXAMINATION

6 BY

7 MR. HARVEY:

8 Q. Good morning, Ms. Marshall. Can you hear me?

9 A. Yes, I can.

10 Q. Do you have before you a document marked 35.0  
11 in question and answer format?

12 A. Yes, I do.

13 Q. Is that your direct testimony in this  
14 proceeding?

15 A. Yes, it is.

16 Q. Was that prepared by you?

17 A. Yes, it was.

18 Q. If I were to ask you the questions contained in  
19 this document today, would your answers be the same?

20 A. Yes, they with would.

21 Q. Do you have any corrections or revisions to  
22 make to the document?

1       A.    No.

2           MR. HARVEY: That being done, I would move Staff  
3       Exhibit No. 35.0 into evidence.

4           JUDGE CASEY: Any objections? Staff Exhibit No.  
5       35.0, Direct Testimony of Judith Marshall will be  
6       admitted.

7                       (Whereupon Staff  
8                       Exhibit No. 35.0 were marked  
9                       for identification and  
10                      admitted into evidence.)

11       BY MR. HARVEY:

12       Q.   Now, Ms. Marshall, do you have before you a  
13       document marked Staff Exhibit No. 36.0?

14       A.   Yes, I do.

15       Q.   Is that your rebuttal testimony on reopening in  
16       this proceeding?

17       A.   Yes, it is.

18       Q.   Was that -- does that document consist of 10  
19       pages of text in question and answer format with one  
20       attachment of 16 pages?

21       A.   Yes.

22       Q.   Was this testimony prepared by you?

1 A. Yes, it was.

2 Q. If I were to ask you the questions contained in  
3 this testimony today, would your answers be the  
4 same?

5 A. Yes, they would.

6 Q. Do you have any corrections or revisions to  
7 make to this document.

8 A. No, I do not.

9 MR. HARVEY: With that admitted resolution of  
10 Ms. Sunderland's objection, I would move Staff  
11 Exhibit Number 36.0 at this time.

12 JUDGE CASEY: Including Attachment No. 1?

13 MR. HARVEY: Including Attachment No. 1.

14 JUDGE CASEY: Are there any objections?

15 MS. SUNDERLAND: Yes, my objection, I guess at  
16 this point, a continuation of my original position  
17 that shared and common costs are not an appropriate  
18 issue for this document. Not within the scope of  
19 the reopening.

20 Ameritech Illinois had originally opposed Mr.  
21 Starkey's use of the Indiana shared and common  
22 study. I understand that the examiners have taken

1       that with the case. I will be renewing my  
2       procedural motion with respect to that when I file  
3       my opening brief -- or I guess it's my opening and  
4       closing brief, my one brief. And at that time I  
5       will indicate in the event that the examiners do  
6       strike that portion of Mr. Starkey's testimony,  
7       there are a number of other pieces of testimony that  
8       we would withdraw or otherwise renew a motion to  
9       strike.

10           Ms. Marshall's testimony is part of that  
11       sequence of testimony that has been filed in  
12       response to that original testimony of Mr. Starkey,  
13       where she proposes a net growth shared and common  
14       alternative here. In support of that, she has  
15       provided testimony that she filed in Docket 00-0700.

16           There are two additional problems with  
17       Ms. Marshall's testimony. One is timing, it was  
18       provided in the rebuttal phase, and Ameritech  
19       Illinois has not even had an opportunity to respond  
20       to it. Secondly, that testimony from Docket 00-0700  
21       is contested. Ameritech Illinois filed testimony in  
22       opposition to it in that docket.

1           So my primary position is that I think that  
2           that attachment should be stricken, and addition the  
3           testimony on line -- on Page 8 of her text, Lines  
4           165 to 179 would be stricken along with it.

5           On the assumption that the examiners will look  
6           at that -- at this motion at the same time they  
7           relook at the Starkey issue, I would like to at  
8           least provisionally provide for the record Ameritech  
9           Illinois Surrebuttal testimony from Docket 00-0700  
10          in which we responded to Ms. Marshall's testimony in  
11          Docket 00-0700. And I have copies here of the  
12          testimony of William Palmer. His testimony includes  
13          a lot more than just Ms. Marshall's issues, shared  
14          and common cost issue.

15          But to avoid problems with whether I've  
16          properly excerpted the relevant materials, I've  
17          simply copied the whole text. But for purposes of  
18          this docket, I'm really only looking at Pages 56  
19          through 69.

20                 JUDGE MORAN: 56 through 69 of what testimony?

21                 MS. SUNDERLAND: Of the surrebuttal testimony of  
22          William Palmer. I would propose to make that

1 Ameritech Illinois Exhibit 16, and there is both a  
2 proprietary and a public version of that. And I  
3 have copies for the record and for the parties.

4 If the examiners wish to strike  
5 Ms. Marshall's testimony as we sit here, I don't  
6 have to do this, but assuming they are going to take  
7 it with the case, then I need to have this in the  
8 record to have a complete, at least a sort of  
9 complete view of Ms. Marshall's proposal, at least  
10 as it stood in Docket 00-0700.

11 JUDGE CASEY: So I'm clear, your objection is, I  
12 guess multifaceted. First you would resurrect a  
13 motion you had earlier, that it's beyond the scope  
14 of this proceeding. Secondly, if it does come in  
15 consistent with our prior ruling that we would take  
16 it and rule on it later, your next objection then is  
17 really a surprise, that staff should have included  
18 this with their direct testimony.

19 So in response to that it's either stricken  
20 because of surprise, or to cure that --

21 MS. SUNDERLAND: It's more -- I don't know  
22 whether it's surprise, exactly, because staff was

1       responding to Mr. Starkey. I mean, until  
2       Mr. Starkey filed his testimony, I don't think  
3       anybody thought shared and common cost allocator was  
4       up for debate in this reopening proceeding.

5               JUDGE CASEY: No one had a clue.

6               MS. SUNDERLAND: But, I think there is a due  
7       process issue of having a proposal come in in  
8       rebuttal when we have no opportunity to respond. So  
9       that in partial cure of the due process issue, I  
10      wish to put into the record Ameritech Illinois'  
11      response in Docket 00-0700.

12              JUDGE MORAN: I have a question for  
13      Ms. Marshall on this argument. Ms. Marshall, you  
14      indicate in your testimony on Page 8, where this  
15      additional testimony out of Docket 00-0700 comes  
16      out, and you indicate there at Lines 27 to 79 that  
17      this proposal was not adopted by the ALJ, but you  
18      are advised by counsel that this determination  
19      appears to be based on the scope of that proceeding,  
20      rather than a rejection of the merits of staff's  
21      position. Am I correct?

22              THE WITNESS: Yes, correct.

1 JUDGE MORAN: My question then to you is, has  
2 there been an expressed finding on the merits of  
3 your testimony?

4 THE WITNESS: To the best of my knowledge,  
5 there has not.

6 JUDGE MORAN: There has not. Thank you.

7 JUDGE CASEY: Mr. Harvey, do you want to respond  
8 to Ms. Sunderland's objections? Mr. Nixon?

9 MR. NIXON: I can, or Mr. Harvey can. I think  
10 the first portion of it goes to the general scope  
11 more involved with Mr. Starkey's presentation on  
12 behalf of the Joint CLEC's. To the extent that  
13 testimony has already been admitted into the record,  
14 with those portions of the testimony about the  
15 shared and common allocator in it, and as  
16 Ms. Sunderland has already admitted, it was a proper  
17 piece of our rebuttal testimony.

18 We were supposed to respond to CLEC's and what  
19 they present in their testimony and we did so.  
20 Ameritech also had, I believe, an opportunity to  
21 file, they chose not to file on that issue. They  
22 could have filed, not directly to what Ms. Marshall

1       was going to say because there were no procedural  
2       changes on that point, but they could have responded  
3       to Mr. Starkey more directly on those issues, they  
4       chose not it.

5               We felt it was a necessary piece to inform the  
6       Commission to provide a complete record so we  
7       attached it. It is within the scope of the  
8       proceeding, as the proceeding has been allowed to go  
9       forward, and it was a proper piece of rebuttal  
10      testimony at the time of responding.

11             JUDGE CASEY: Then with respect to the next tier  
12      of Ms. Sunderland's position.

13             MR. HARVEY: We have no objection to the  
14      admission of those 13, 14 pages of testimony,  
15      whatever it is that Ms. Sunderland wants to put in.

16             MS. SUNDERLAND: I was going to put in the whole  
17      thing unless you want me to excerpt it. I've  
18      already got them copied in their entirety.

19             MR. NIXON: As long as the understanding is only  
20      portions of the testimony.

21             JUDGE CASEY: So Ms. Sunderland, the copies that  
22      you brought in today are the full and complete

1 testimony?

2 MS. SUNDERLAND: Yes.

3 JUDGE CASEY: Of who?

4 MS. SUNDERLAND: William Palmer.

5 JUDGE CASEY: Mr. Palmer. Is it too burdensome  
6 to identify in the record which portions of that  
7 testimony specifically reference the testimony that  
8 has been proposed by Ms. Marshall?

9 MS. SUNDERLAND: No. I'm only introducing it  
10 for purposes of Pages 56 through 69.

11 JUDGE CASEY: Okay. Given the two parties,  
12 staff and the Company's position, does anyone have  
13 an objection with respect to allowing the Company  
14 the opportunity to admit that surrebuttal testimony?  
15 Let the record reflect that there were no  
16 objections. Ms. Sunderland, when you have an  
17 opportunity to return to the microphone, please  
18 identify the exhibit.

19 MS. SUNDERLAND: What I will be handing to the  
20 court reporter, I would ask to have marked as  
21 Ameritech Illinois Exhibit 16, and there will be  
22 both Ameritech Illinois Exhibit 16P and Ameritech

1 Illinois 16, the public version, which is the  
2 surrebuttal testimony of William C. Palmer from  
3 Docket 00-0700 and it is marked as Ameritech  
4 Illinois Exhibit 2.2 in Docket 00-0700, but it will  
5 be referred to as Ameritech Illinois Exhibit 15.0 in  
6 this docket.

7 JUDGE CASEY: 15 or 16?

8 MS. SUNDERLAND: 16, I'm sorry, 16.0.

9 JUDGE MORAN: 16.0 and 16.0P.

10 JUDGE CASEY: There being no objection, then  
11 Ameritech Illinois Exhibit 16.0 and 16.0P, the  
12 surrebuttal testimony of Mr. Palmer, which was  
13 testimony in Docket 00-0700 identified in that  
14 proceeding as Exhibit 2.2, and 2.2P will be  
15 admitted. And again, with that caveat or limitation  
16 as identified with Ms. Sunderland with respect to  
17 the specific page numbers which refer back to  
18 Ms. Marshall's testimony in Exhibit 36 in this  
19 proceeding.

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1                   (Whereupon Ameritech Illinois  
2                   Exhibits Nos. 16.0 and 16.0P were  
3                   marked for identification and  
4                   admitted into evidence.)

5           JUDGE CASEY: So that the record is clear, then,  
6           Ms. Sunderland's objection to the admission of 36.0  
7           with it's attachment will be taken with the case  
8           consistent with our ruling prior. Those documents  
9           will be admitted, that being Staff Exhibit 36.0, the  
10          rebuttal testimony of Judith Marshall.

11                   (Whereupon Staff  
12                   Exhibit No. 36.0 was marked  
13                   for identification and  
14                   admitted into evidence.)

15          MR. HARVEY: And we would make Ms. Marshall  
16          available for cross examination at this time.

17          JUDGE CASEY: Is there any cross examination for  
18          Ms. Marshall?

19          JUDGE MORAN: None of the parties appear to have  
20          any cross examination for Ms. Marshall. I have one  
21          or two questions.  
22

1 EXAMINATION

2 BY

3 JUDGE MORAN:

4 Q. Ms. Marshall, do you have any opinion as to  
5 whether the Commission should be apprised of the  
6 distribution of any settlement funds in the event  
7 that the Commission were to allow it?

8 A. Just for clarification purposes, are you  
9 referring to Ameritech's distribution or the  
10 distribution that would happen by resellers?

11 Q. Actually both.

12 A. Certainly the Commission has discretion to  
13 order disclosure or reporting of anything that it  
14 wishes to become informed about. My own viewpoint  
15 is that I would be much more interested if Ameritech  
16 reported the distribution that Ameritech makes in  
17 that I would be less inclined to have every reseller  
18 who receives a distribution report to the Commission  
19 what they've done with that distribution.

20 Q. Do you have a basis for that opinion, with  
21 respect to CLEC's?

22 A. Well, it would certainly depend upon what the

1 Commission's purpose was. My own purpose would not  
2 require such a report, because there is nothing in  
3 staff's testimony that even addresses the issue as  
4 to what CLEC's do with the refunds that they get  
5 from Ameritech at the present.

6 So I guess what I would say is it's not staff's  
7 proposal that we impose such a reporting requirement  
8 or any requirement, but we recognize the Commission  
9 could in its own discretion impose something.

10 Q. Okay. Ms. Marshall, do you have before you  
11 Staff Conn Cross Exhibit No. 1?

12 A. Yes, I do.

13 Q. Do you have any comment on that? I mean, first  
14 of all, have you read through the request and  
15 response?

16 A. Yes, I have.

17 Q. And do you have any comment on that?

18 A. No, it's my understanding that McLeod has not  
19 reached a decision as to what it would do with any  
20 credits it receives from Ameritech, and that again  
21 is something I think the Commission may have the  
22 discretion to impose reporting on McLeod. But it's

1 not part of staff's case, it's not staff's  
2 recommendation at this point.

3 Q. So you have no recommendation?

4 A. No.

5 JUDGE MORAN: Thank you, I have no further  
6 questions.

7 MR. HARVEY: No redirect.

8 JUDGE CASEY: There being no other cross, and no  
9 redirect, Ms. Marshall, you are excused, thank you.

10 (Witness excused.)

11 JUDGE CASEY: Let's go off the record.

12 (Whereupon, there was an  
13 off-the-record discussion.)

14 JUDGE CASEY: While an off the record discussion  
15 was had as to the scheduling of this matter, so the  
16 record is clear, initial briefs will be due March  
17 20th, proposed order on this matter March 29th, with  
18 briefs on exception of April 4th.

19 One thing that wasn't discussed that the ALJ's  
20 would like to see, any party who chooses to may do  
21 so, may provide a proposed draft order with respect  
22 to this -- the area involved in the reopening, and

1       that would be due on the Monday following the  
2       initial brief. And I believe that's March 26th.  
3       Please confirm, if anyone has a calendar.

4             MS. HAMILL: That's the 25th, your Honor.

5             JUDGE CASEY: The 25th, March 25th, then.

6       Mr. Townsley also had a question while we were off  
7       the record. Mr. Townsley, do you want to state that  
8       question again on the record?

9             MR. TOWNSLEY: Yes, thank you, your Honor. I  
10       just want to make sure that I am clear and the  
11       record is clear on the status of WorldCom Fritzlin's  
12       Cross Exhibits 2 through 6. It's my understanding  
13       that they have been admitted into the record. As I  
14       indicated earlier, I am filing an affidavit in  
15       support of those cross exhibits, which I will file  
16       later today or by tomorrow morning, but I just  
17       wanted to make sure that they are admitted.

18            JUDGE MORAN: They have in fact been admitted as  
19       of last Friday.

20            MR. TOWNSLEY: Thank you, very much.

21            JUDGE MORAN: Have one more thing that the ALJ's  
22       want to say in reference to that. We have let in a

1       lot of testimony proffered by the parties in support  
2       of their respective theories, and to allow them to  
3       make as full and complete a record as they have  
4       desired.

5               We ask parties, however, to not presume all of  
6       this evidence to be relative or probative, simply on  
7       the basis of its admission. If parties are relying  
8       on certain testimony, they need to fully address and  
9       establish the underlying probative value as per the  
10      law and the rules of evidence. We need to make sure  
11      that the evidence is indeed meaningful, probative,  
12      and parties should also discuss the weight that  
13      should be given this evidence.

14             JUDGE CASEY: Is there anything else? Let the  
15      record reflect this reopening will be marked heard  
16      and taken.

17                               HEARD AND TAKEN

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